



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Grace Industries, Inc.

File: B-228097.2

Date: March 1, 1988

DIGEST

Notwithstanding the validity of the government's estimate for a procurement or the agency determination that the low responsive bid price is unreasonable, an agency's cancellation of solicitation after bid opening is not legally objectionable where it determined after bid opening that sufficient funds were not available to make award to the low responsive bidder. Under such circumstances, the agency is not required to award a contract under the solicitation for less than the total amount of work solicited.

DECISION

Grace Industries, Inc., protests the cancellation of invitation for bids (IFB) No. DABT57-87-B-0048 issued by the Department of the Army for custodial services at Fort Eustis and Fort Story, Virginia, and four reserve centers in the same vicinity. Grace requests that, as the low responsive bidder, it be awarded a contract under the solicitation or, alternatively, that the scope of work under the IFB be reduced and award made to Grace at the unit prices which it bid. The protest is denied.

At the time of bid opening on October 19, 1987, 16 bids for the required custodial services (including labor, equipment, materials and supplies) were received in response to the IFB, which called for bid prices for 1 base year and 2 option years. The contracting officer states that the government estimate for the base year was \$670,000. The nine lowest bids were determined to be materially unbalanced with respect to the base and option years and, therefore, nonresponsive. Grace's bid, priced at \$1,097,591.28 for the base year and for each of the 2 option years, was found to be responsive. However, after being informed that funds were not available for the amount of Grace's base year bid, the contracting officer, on October 20, rejected the bid on

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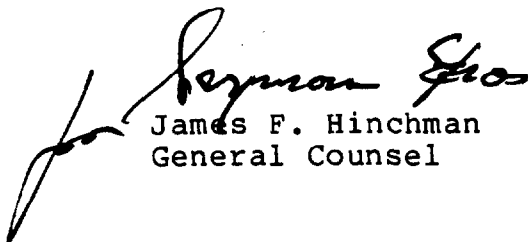
the basis that it was unreasonable as to price and canceled the solicitation.

Grace contends that the government's determination that its bid is unreasonable is arbitrary and capricious and that cancellation of this solicitation after bid opening compromises the integrity of the competitive bidding system. The protester maintains that in calculating its estimate the Army could not have followed Army regulations and standards because the government's estimate would not cover the costs of the labor, alone, that is required by the solicitation. Grace states that if the government, in fact, has an "actual" estimate, it is improperly based upon the amount of funds the agency has available for the solicitation, not upon the scope of work required by the solicitation.

A contracting agency has right to cancel a solicitation when sufficient funds are not available, irrespective of disputes concerning the validity of the government estimate or the reasonableness of the low responsive bid price. Cellular Products Services, Inc., B-222614, July 3, 1986, 86-2 CPD ¶ 32, aff'd, B-222614.2, Aug. 18, 1986, 86-2 CPD 196; Northwest Biological Consulting, B-207706, Nov. 9, 1982, 82-2 CPD ¶ 425. Since Grace does not dispute the Army's determination that there is not sufficient funding, we find that the agency properly canceled the IFB and the protester is not entitled to award under it. Kos Kam-Pelasgus, Joint Venture, B-225841, Apr. 1, 1987, 87-1 CPD ¶ 370.

Concerning Grace's request that it be awarded the contract under a scope of work reduced to comport with the amount of funds available, the agency is not required, under these circumstances, to award the contract for less than what was required under the solicitation as issued. See Northwest Biological Consulting, B-207706, supra.

The protest is denied.



James F. Hinchman
General Counsel